IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.8638 OF 2005

Yogendrasingh alias
Chandrasagar Rajput. .. Petitioner.

Vs.

The Hon'ble The Chief Justice
And Hon'ble Members of
Disciplinary Committee of
High Court of Judicature
at Bombay & Others. .. Respondents

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Shri S.A.Sawant for the petitioner.

Shri C.R.Sonawane, AGP for the Respondent Nos.1 to 4.

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CORAM : R.M.S.KHANDEPARKAR &

NARESH H.PATIL, JJ

DATED : 29TH AUGUST, 2006

P.C.

1. Heard. The order of dismissal of the petitioner from the judicial post from the CJJD and JMFC, Pimpri Chinchwad, District Pune, is sought to be challenged on two grounds. Firstly that there was no fair opportunity given to the petitioner to defend his case and secondly that the reasons disclosed for penalty of dismissal are not sufficient to impose such a major penalty.

2. Undisputedly, the charges levelled and established against the petitioner relate to the involvement of the petitioner in corrupt practice. The petitioner was occupying a judicial post being Civil Judge, Junior Division and Judicial Magistrate, First Class at Pimpri Chinchwad in Pune District, at the relevant period.

3. As regards the first ground of challenge, it is the contention on behalf of the petitioner that the enquiry officer intentionally neglected fair submission of the petitioner to call alleged tape recorder and to verify conversation before coming to any conclusion in the matter. This, according to the petitioner, discloses prejudiced mind of the enquiry officer in arriving at the conclusion on the basis of the selected pieces of evidence, while discarding the relevant piece of evidence.

4. Undisputedly, it was not a criminal prosecution. The enquiry was on account of disciplinary proceedings against the petitioner. In such proceedings, the conclusion is to be arrived at on the basis of the materials placed before the enquiry officer. If the material placed before the

enquiry officer is sufficient to form a definite opinion on the point of charges levelled against the delinquent, merely because an additional evidence which was sought to be produced on behalf of the petitioner is not considered, that by itself cannot be a ground to contend failure on the part of the enquiry officer to afford fair opportunity to the petitioner to defend his case, unless the petitioner makes out a case of prejudice on account of non-consideration of such evidence. The petitioner has not been able to disclose in any manner that consideration of the alleged tape recorder and verification of the conversation disclosed from the said tape recorder could have in some manner weighed or influenced the enquiry officer in arriving at a conclusion different from the one arrived at by the enquiry officer. In what manner, the said conversation and verification thereof available on the tape recorder would have assisted the enquiry officer to arrive at any conclusion different from the one arrived at has neither been disclosed nor the relevancy of the said verification of the said conversation for the purpose of ultimate conclusion arrived at by the enquiry officer has been disclosed. At the same time, the evidence placed before the enquiry officer being sufficient to arrive at the findings by the enquiry

officer is not disputed. Being so, we find no substance in the contention sought to be raised on behalf of the petitioner about failure on the part of the enquiry officer to afford fair opportunity to the petitioner to defend his case. On the contrary, the findings apparently disclose to have been based on cogent materials on record.

5. As regards the second ground of challenge, as already observed, the charges levelled against the petitioner were of the corruption, while he was required to perform duties of a judicial officer. We wonder whether in cases of corruption charges being established against a judicial officer, can there be a lesser punishment than the dismissal from the service? The person indulging in corrupt practices can have no place in judiciary, whether higher or lower ? Once the findings arrived at by the enquiry officer regarding involvement of a judicial officer in corrupt practices being clearly disclosed to be based on cogent materials on record, administration cannot be blamed for imposing punishment of dismissal from the service nor any fault can be found in such order. In the case of the petitioner, the charges of serious nature having been established, we find no irregularity of whatsoever nature in the imposition of

the punishment of dismissal from service.

6. As no other ground is canvassed against the impugned order, there is no case for interference in the impugned order in writ jurisdiction. The petition fails and is hereby rejected.

(NARESH H.PATIL,J) (R.M.S.KHANDEPARKAR, J)